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WATER RESOURCES
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Attorneys for Mayfield Townsite, LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 63-32499 IN THE
NAME OF MAYFIELD TOWNSITE,
LLC.

**MOTION TO DISQUALIFY HEARING
OFFICER AND APPOINT INDEPENDENT
HEARING OFFICER**

Applicant Mayfield Townsite, LLC ("Mayfield") by and through its counsel of record Perkins Coie LLP, hereby moves for disqualification of hearing officer Mr. Gary Spackman and appointment of an independent hearing officer who is not an employee of the Idaho Department of Water Resources ("IDWR"), pursuant to Idaho Code § 67-5252 and IDAPA 37.01.01 Rules 410 and 412.

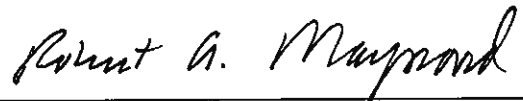
On May 15, 2009, Mayfield received notice that Mr. Spackman has been designated the presiding hearing officer. Idaho Code § 67-5252(2) provides that a petition for disqualification must be filed within fourteen (14) days of notice or, alternatively, promptly upon discovering facts establishing grounds for disqualification, whichever is later. Mayfield's Motion is timely filed in accordance with Idaho Code § 67-5252(2) and IDAPA 37.01.01 Rule 412. The hearing in this proceeding is scheduled for November 5-6, 2009, so ample time remains to appoint an independent hearing officer.

Mayfield seeks to disqualify Mr. Spackman based upon his status as an Idaho Department of Water Resources ("IDWR") employee, as well as his significant involvement in formulation and administration of IDWR municipal water rights policies and proposals likely to be at issue in this contested case. Status as an IDWR employee and the substantial involvement Mr. Spackman has demonstrated in the formulation and administration of IDWR municipal water rights policies are grounds for disqualification as set forth in Idaho Code § 67-5252 and IDAPA 37.01.01 Rule 412. Further, Mayfield seeks to disqualify all IDWR employees for cause, given the contested nature of this municipal water rights proceeding and the potential for bias, and hereby respectfully requests that an independent hearing officer be appointed pursuant to IDAPA 37.01.01 Rules 410 and 412.

In the alternative, if Mr. Spackman should deny this Motion to Disqualify Hearing Officer and Appoint Independent Hearing Officer, Mayfield respectfully requests that Mr. Spackman be disqualified without cause, and that an independent hearing officer who is not an IDWR employee be appointed. Idaho Code § 67-5252 provides applicants the right to one (1) disqualification of a hearing officer without cause.

DATED: May 29, 2009

PERKINS COIE LLP

By: 
Robert A. Maynard, ISB No. 5537
Erika E. Malmen, ISB No. 6185

Attorneys for Mayfield Townsite, LLC

CERTIFICATE OF SERVICE

I, the undersigned, certify that on May 29, 2009, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Procedure, to the following person(s):

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